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Arizona Corporation Commission

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AZ CORP COMMISSION
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IN THE MATTER OF THE APPLICATION OF
SULPHUR SPRINGS VALLEY ELECTRIC
COOPERATIVE, INC. FOR A HEARING TO
DETERMINE THE FAIR VALUE OF ITS
PROPERTY FOR RATEMAKING PURPOSES,
TO FIX A JUST AND REASONABLE
RETURN THEREON, TO APPROVE RATES
DESIGNED TO DEVELOP SUCH RETURN
AND FOR RELATED APPROVALS.

DOCKET NO. E-01575A-08-0328

IN THE MATTER OF THE APPLICATION OF
SULPHUR SPRINGS VALLEY ELECTRIC
COOPERATIVE, INC. FOR AN ORDER
INSTITUTING A MORATORIUM ON THE
NEW CONNECTIONS TO THE V-7 FEEDER
LINE SERVING THE AREAS OF
WHETSTONE, RAIN VALLEY, ELGIN,
CANELO, SONOITA, AND PATAGONIA,
ARIZONA.

DOCKET NO. E-01575A-09-0453

STAFF'S CLOSING BRIEF

I. INTRODUCTION

This matter was brought before the Arizona Corporation Commission ("Commission") pursuant to Sulphur Springs Valley Electric Cooperative, Inc.'s ("SSVEC", "Cooperative" or "Company") Petition to Amend Decision No. 71274 ("Decision") pursuant to A.R.S. § 40-252 and for Related Authorization ("Petition").¹ SSVEC filed its Petition on January 14, 2010.

In its Petition, SSVEC is seeking (1) an order amending the Decision to modify a condition which SSVEC must comply with before the Cooperative may seek authorization from the Commission to construct the 69 kV sub-transmission power line referenced in the Decision (the "69 kV line"); and (2) authorization to commence construction of the 69 kV line.

At the February 3, 2010 Special Open Meeting, the Commission voted on SSVEC's Petition and moved "to grant Sulphur Springs Valley Electric Cooperatives' Petition to Amend Decision No.

¹ The ALJ consolidated Docket E-0157A-08-0328 and Docket E-01575A-09-0453 on January 29, 2010.

1 71274 pursuant to A.R.S. § 40-252 and for related authorization for the purposes of further
2 consideration of whether Decision No. 71274 should be amended and the request for related
3 authorization should be approved; and, also grant the Cooperative's request for expedited
4 consideration of its Petition and direct the Hearing Division to conduct appropriate proceedings and
5 prepare a recommended opinion and order for Commission consideration on an expedited basis.”

6 The Administrative Law Judge (“ALJ”) issued a procedural order on February 11, 2010
7 setting the matter for hearing on March 24, 2010. In addition to SSVEC and Commission Utilities
8 Division Staff (“Staff”), there are three individuals that were granted intervention in this matter:
9 Susan Scott, Susan Downing, and James Rowley III.²

10 **II. THE COMPANY DEMONSTRATED A NEED FOR THE 69 KV LINE IN THE**
11 **UNDERLYING RATE CASE**

12 Although this hearing is a result of the Company filing its Petition to amend Decision No.
13 71274, it is nonetheless part of the consolidated dockets E-01575A-08-0328 (Rate Case) and E-
14 01575A-09-0453 (Application for Moratorium). As such, there are already findings and
15 determinations that the ALJ recommended, and the Commission approved as part of the rate case. It
16 is Staff's position that the Commission has already determined there is a need for SSVEC's proposed
17 69 kV transmission line in adopting Decision No. 71274.

18 Specifically, the Commission determined that the evidence in the underlying rate case
19 indicated that the Company's “planned upgrade of the existing 360 mile three phase feeder to a 69 kV
20 transmission line, with a new substation and four smaller feeders will address the capacity issues and
21 improve system reliability. . . .”³ The Commission also noted that the upgrade will not prevent local
22 efforts to install renewable generation sources, but would actually improve the utilization of
23 renewable generation by providing a transmission path.⁴ Although the Commission acknowledged
24 that the Line Siting Committee does not have jurisdiction over the siting of the proposed 69 kV line,
25 it did note that the Commission has the authority to ensure that the Company is providing safe and
26

27 ² The ALJ granted intervention as follows: Sue Downing on October 23, 2009 (Docket E-01575A-09-0453), Susan Scott
on November 19, 2009 (E-01575A-08-0328), James Rowley III on January 20, 2010 (E-01575A-08-0328).

28 ³ Decision No. 71274 at 38.

⁴ *Id.*

1 reliable service, and that allowing substandard service is not in the public interest.⁵ Ultimately the
2 Commission commented that the SSVEC is responsible for the quality of service for all of its
3 members, and it must make informed decisions on how to meet its obligation.⁶ Further, the Decision
4 acknowledged that the information presented during the rate case hearing supported SSVEC's
5 position regarding the 69 kV line.⁷

6 Staff's position during the underlying rate case and in the current proceeding is that the
7 construction of the 69 kV line is necessary to resolve both the reliability and capacity issues that the
8 Company is experiencing on the existing V-7 feeder that is currently serving Elgin, Patagonia, and
9 Sonoita areas ("Affected Area").

10 It appears the Commission agreed with the Company that improvements are needed to the
11 quality of service in the Sonoita area. In this case, the Commission agreed with the Company that
12 service was lacking, and that the evidence presented in the rate case hearing indicates that the Sonoita
13 area has had a 10-year average of 270 hours of outages per year because of the diminished reliability
14 of the existing line.⁸

15 The Commission expressed concern over the proposed new line and wanted to ensure that the
16 goals of the local communities that want more investment in renewable generation to mitigate the
17 need for the project have been fully considered by SSVEC. Consequently, the Commission required
18 the Company to have an independent feasibility study ("Study") prepared by a third party that
19 addresses possible alternatives, and that SSVEC hold Public Forums in the impacted communities.⁹

20 **III. SSVEC COMPLIED WITH THE REQUIREMENTS OF COMMISSION**
21 **DECISION NO. 71274**

22 The Commission in its Decision set forth specific requirements that SSVEC must comply
23 with prior to being able to construct the 69 kV line.

24 ...

25 ...

26 ⁵ *Id.*

27 ⁶ *Id.* at 39.

⁷ *Id.*

28 ⁸ *Id.* at 36.

⁹ *Id.* at 39.

1 **A. The Public Forums**

2 First, the Commission ordered SSVEC to file, by October 30, 2009, a report setting forth the
3 manner and dates when it will conduct forums in the communities served by the planned 69 kV
4 line.¹⁰ The report was supposed to discuss the topics to be addressed at the Public Forums including,
5 but not limited to, renewable energy generation that could be incorporated into the generation plans
6 for the area to be served by the planned 69 kV line.

7 In compliance with this requirement, the Company filed its report on October 30, 2009
8 addressing the time frame for the forums, the locations, and the topics to be discussed at the forums.
9 In particular, the Company indicated that the Public Forums will focus on the solutions identified in
10 the Independent Third Party Feasibility Study, along with short-term and long-term costs, time
11 effectiveness, environmental factors, health and safety considerations, and legal and regulatory
12 requirements. In addition, the Company indicated that the forums will include discussions of how
13 renewable energy generation could be incorporated into the generation plans to serve the area
14 covered by the planned 69 kV line.

15 On February 10, 2010, the Company filed a second report that included information: (i)
16 outlining where and when the Public Forums would be held in the Affected Area, (ii) where and
17 when additional Public Forums would be held in other parts of the Cooperatives service territory,
18 (iii) regarding the proposed agenda to include topics related to bringing renewable generation to the
19 Affected Area, (iv) regarding how SSVEC planned to notify its members and the public of the Public
20 Forums, (v) locations where the Independent Feasibility Study would be available for inspection and
21 review, and (vi) that there would be an Independent Moderator conducting the meetings.

22 The Commission further ordered SSVEC to file, by July 30, 2010, a report discussing the
23 outcome of the Public Forums, and how it plans to incorporate the reasonable and effective
24 renewable energy proposals resulting from the Public Forums.¹¹ On March 24, 2010, SSVEC filed
25 its report, well in advance of the July 30, 2010 deadline, that discussed the outcome of the Public
26 Forums held in the Affected Area.

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28

¹⁰ *Id.* at 48.

¹¹ *Id.* at 48.

1 **B. The Feasibility Study**

2 As mentioned above, the Commission ordered SSVEC to file, by December 31, 2009, a
3 feasibility study prepared by an independent third party that addresses alternatives that could mitigate
4 the need for construction of the proposed 69 kV line.

5 SSVEC engaged TRC Solutions ("TRC") to act as a firewall and assist SSVEC in selecting a
6 firm to perform the third party independent feasibility study.¹² TRC developed a bidder list and a
7 statement of the work through participation with SSVEC and 3SEG Group.¹³ After completing the
8 bidder list, and statement of work, TRC completed the request for proposals package ("RFP").¹⁴ In
9 October, 2009 TRC released the RFP for bid. Ultimately the project was awarded to Navigant
10 Consulting ("Navigant") because of its experience in "... the areas of planning, reliability studies,
11 distributed generation, energy storage, demand response, photovoltaic's, costs, and their ability to
12 complete the study within the time frame required."¹⁵

13 Navigant preformed the feasibility study in accordance with the RFP, and the Commission's
14 Decision, and docketed it on December 31, 2009.

15 **C. SSVEC Shall Not Commence Construction Of The 69 kV Line Until Further**
16 **Order Of The Commission**

17 In addition to the prerequisites of the Study and the Public Forums, SSVEC is not permitted
18 to construct the line until further Order of the Commission.¹⁶ SSVEC filed its Petition to amend
19 Decision No. 71274 to allow it to commence construction of the line. Staff believes that since the
20 Company has now complied with the prerequisites of having an independent feasibility study
21 performed, has held Public Forums in the area to be served by the proposed line, and has filed the
22 Study and the report associated with the Public Forum in a timely fashion, the final step is for the
23 Commission to decide whether it should amend the Decision to allow the Company to commence
24 construction of the 69 kV line. Staff recommends, as addressed in greater detail below, that the
25 Commission amend the Decision to allow the Company to construct the line.

26 _____
¹² Tr. at 500.

27 ¹³ *Id.* at 501-502.

28 ¹⁴ *Id.* at 502.

¹⁵ *Id.* at 503.

¹⁶ Decision No. 71274 at 48.

1 IV. THE OUTCOME OF THE INDEPENDENT FEASIBILITY STUDY AND PUBLIC
2 FORUMS

3 Despite the relative time constraints and the narrow scope ordered by the Commission,
4 Navigant managed to perform an extensive analysis of the feasibility of alternatives that could
5 potentially mitigate the need for the new line.¹⁷ Mr. Schlatz, a representative of Navigant,
6 summarized the primary findings, conclusions, and recommendations in his prefiled testimony as
7 follows:

8 (1) The performance and reliability of the V-7 feeder has degraded to a level where
9 near-term solutions are needed to correct deficiencies. The length and amount of load
10 served by the feeder causes large voltage perturbations, a high level of sustained and
11 momentary customer interruptions, and high energy losses. [P]ower quality. . . . is
12 below levels utilities generally deem to be acceptable.¹⁸

13 (2) The capability of existing substation equipment and the V-7 feeder to reliably
14 serve new load is at or near limits. Recent loads are just below the nameplate rating of
15 the substation transformer and load imbalances on individual phase conductors
16 severely restrict SSVEC's ability to add new load. . . . [V]oltages at the end of the
17 very long line segments are near or below acceptable levels during periods of high
18 demand.¹⁹

19 (3) . . . [R]enewable resources, such as wind and solar photovoltaic systems provide
20 little, if any, relief to the performance problems cited above, nor do they provide any
21 meaningful capacity support. The V-7 feeder is located in an area where average wind
22 speeds are low. The feeder experiences peak loads during early morning, winter
23 hours, which precludes any significant contribution from solar photovoltaic generation
24 to reduce V-7 feeder peak demand.²⁰

25 (4) The installation of oil-fired diesel or natural gas generators in the Sonoita area
26 could meet long-term capacity needs. However, installation of generators would
27 require SSVEC to obtain an air quality permit, create noise during early morning
28 operation, and. . . would not mitigate the performance and reliability problems. . . .²¹

(5) An aggressive load reduction program achieved by the conversion of existing
electric heating systems may also meet long-term capacity needs. However, a large
number of customers – 100 immediately and up to 500 homes and businesses over 20
years – would need to agree to permanently convert and remove electric heating
systems and replace them with fossil fuel systems. Also similar to the diesel option,

¹⁷ The Decision was issued on September 8, 2009, and the SSVEC had to docket the study by December 31, 2009.

¹⁸ Schlatz Dir. Test., Ex. A-2 at 8.

¹⁹ *Id.* at 9.

²⁰ *Id.*

²¹ *Id.*

1 conversion of electric heating units to fossil fuel systems would not address V-7
2 performance and reliability problems.²²

3 (6) The preferred option from a reliability, performance, and capacity standpoint is
4 the construction of a new 69 kV line to a new substation located in Sonoita. The
5 preferred site for the substation is on new land SSVEC recently purchased in
6 Sonoita. . . . [T]he preferred route. . . follows the right-of-way along the Babacomari
7 Ranch and existing distribution lines.²³

8 Staff reviewed the Study prepared by Navigant and filed by SSVEC. Staff is generally in
9 agreement with the recommendations set forth in the Study. Staff believes that the Company
10 demonstrated in the underlying rate case that it needs the 69 kV line to resolve the capacity and
11 reliability issues that are plaguing the V-7 feeder. Likewise, testimony provided in this proceeding
12 made it clear that there is a present need to improve the quality of service provided by the existing V-
13 7 feeder and further that the proposed 69 kV line is the timeliest means to resolve these issues.²⁴
14 Therefore, Staff recommends that the Commission grant SSVEC's Petition to amend Decision No.
15 71274 in order to allow the Company to commence construction of the line.²⁵

16 However, Staff reached the additional recommendations that

17 (1) the Company implement Navigant's suggestion that SSVEC modify its employee
18 schedules, as appropriate, to help mitigate the length of outages.²⁶

19 (2) that the Company file, as a compliance item in this docket, a detailed plan of how
20 the Company will encourage and educate its customers on the use of renewable
21 energy.

22 (3) that the Company educate and encourage its customers on energy efficiency.²⁷

23 Staff made two other recommendations. First, Staff recommended that SSVEC withdraw its
24 Motion for Reconsideration, and Application for Moratorium. Second, Staff recommended that the
25 Commission deny SSVEC's request to vacate the requirement that the Company first conduct Public
26 Forums before the Commission will authorize SSVEC to construct the line. Staff acknowledges that

27 ²² *Id.* at 10.

28 ²³ *Id.*

²⁴ Tr. at 472-73, 479-81.

²⁵ Abinah Dir. Test., Ex. S-1 at 4.

²⁶ *Id.*

²⁷ *Id.*

1 the second recommendation is now moot since the Company has completed the Public Forums in
2 compliance with the Decision.

3 Staff did not arrive at these recommendations lightly and not rely solely on the analysis and
4 findings made by the Navigant Study. Staff looked at whether there was a practicable opportunity for
5 SSVEC to simply upgrade the existing V-7 feeder, or whether alternative resources could mitigate the
6 need for the 69 kV line.²⁸ However, none of these other alternatives provide so complete, cost
7 effective or timely a remedy to the reliability and capacity issues that the Affected Area is presently
8 experiencing as construction of the new 69 kV line.

9 Staff agrees with the Company, that the V-7 feeder currently resides on a prescriptive
10 easement, which is developed through operation of law. Black's Law Dictionary defines easement
11 by prescription as:

12 A mode of acquiring an easement in property by immemorial or long-continued
13 enjoyment, and refers to personal usage restricted to claimant and his ancestors or
14 grantors. The uninterrupted use of the land must generally be for the same statutory
period of time as for adverse possession.

15 In Arizona to obtain an easement by prescription “. . . a person must establish that the land in
16 question has actually and visibly been used for ten years, that the use began and continued under a
17 claim of right, and [that] the use was hostile to the title of the true owner of the land.” *Paxson v.*
18 *Glovitz*, 203 Ariz. 63, 67, 50 P.3d 420, 424 (Ariz. App. 2002). It is well settled that “[t]he scope of a
19 prescriptive easement is determined by the use through which it was acquired.” *Inch v. McPherson*,
20 176 Ariz. 132, 136, 859 P.2d 755, 759 (Ariz. App. 1992). Staff believes that upgrading the existing
21 25 kV line (the V-7 feeder) to a 69 kV line would be considered a change in the scope of use.²⁹

22 Although Staff believes the Company has the ability to upgrade the existing V-7 feeder, it
23 would be neither cost effective nor viable for several reasons. First, the V-7 feeder crosses 98 private
24 property owners, Arizona State Land, and the Las Ciengas National Conservation Areas.³⁰ Obtaining
25 the agreement of all of the landowners is doubtful and perhaps not entirely desirable.³¹

26
27 ²⁸ *Id.* at 5.

28 ²⁹ *Id.* at 7.

³⁰ *Id.* at 6.

³¹ Tr. at 631-32.

1 Additionally, the Company estimates that the cost of obtaining the requisite easement and/or
2 right-of-way to be between \$1.8 – 2.2 million excluding the cost of any legal actions.³² This also
3 excludes the cost of actually constructing the line. Further, the Company jeopardizes its existing
4 prescriptive easement by approaching, and entering into, negotiations with the private landowners to
5 upgrade the line to a 69 kV line.³³ Ultimately, SSVEC asserts, and Staff agrees that it would cost the
6 Company millions of dollars, and many years just to obtain the necessary right-of-way.

7 Staff believes there are alternative resources the Company could pursue, but none of the
8 alternatives are viable either due to timing issues, cost effectiveness, or other environmental concerns
9 and reliability.³⁴

10 The Company could either construct its own generating plant in the Affected Area, or
11 purchase a generating plant from a third party.³⁵ However, Staff is not recommending that the
12 Company construct its own generation because SSVEC is a distribution cooperative, the costs
13 outweigh the benefits, and it would be a lengthy process.³⁶ As SSVEC acknowledged during the
14 hearing, incorporating a generation component to their utility operations is a significant undertaking,
15 not for the least reason that the Company does not already possess the associated skills and
16 experience necessary to effectively operate generation plant.³⁷ The Company estimates the cost of
17 constructing its own conventional generation would be approximately \$50 million dollars, and in the
18 end would not resolve the issues relating to the V-7 feeder.³⁸ The Company would still have to build
19 a 69 kV line in order to transport the power.³⁹ Regarding purchasing an existing power plant, SSVEC
20 indicated it did not believe there were any for sale within its service area.⁴⁰

21 Alternatively, SSVEC could either enter into a Power Purchase Agreement (“PPA”) with
22 another energy provider, or contract with another electric generating company. Staff believes the
23

24 _____
25 ³² Ex. S-1 at 9; Tr. at 632.

26 ³³ Ex. S-1 at 8.

27 ³⁴ *Id.* at 9.

28 ³⁵ *Id.* at 10.

³⁶ *Id.* at 10-11.

³⁷ Tr. at 476-77.

³⁸ Ex. S-1 at 11.

³⁹ *Id.*

⁴⁰ *Id.* at 12.

1 Company could enter into a PPA where it is technically and financially feasible.⁴¹ However, this will
2 not necessarily resolve the reliability and capacity problems the Company is experiencing with the V-
3 7 feeder.

4 Finally, although Staff does not believe there is enough distributed renewable energy today to
5 mitigate the need for the line, Staff does believe that distributed energy can help over time as
6 participation increases. For that reason, Staff is recommending that the Company encourage and
7 educate its customers on the use of renewable energy.⁴² Similarly with energy efficiency, Staff does
8 not believe energy efficiency can be implemented quickly enough to mitigate the need for the line,
9 but is recommending that the Company educate and encourage its customers on measures such as
10 energy efficiency.⁴³

11 **V. THE INTERVENORS OPPOSE CONSTRUCTION OF THE LINE THROUGH**
12 **THE BABACOMARI RANCH**

13 As indicated above, there are three individuals that were granted intervention in this case.

14 **A. James F. Rowley III**

15 In Mr. Rowley's prefiled testimony, although he addresses numerous topics, the two major
16 issues he addresses relate to the assumptions and conclusions in the Study, and outages on the
17 existing V-7 feeder.

18 First, in his prefiled testimony, Mr. Rowley criticizes the Study prepared by Navigant because
19 it does not fully address the storage of energy from either distributed generation or large scale
20 generation to meet peak load.⁴⁴

21 Ultimately, Mr. Rowley recommends a multifaceted approach to solve the load issues on the
22 V-7 feeder: (1) better balance the load on the V-7 feeder, (2) temporarily install a 500 kW to 1 MW
23 generator, (3) construct a photovoltaic ("PV") system and deliver the power directly to the V-7
24 feeder, (4) continue plans with Demand Side Management and make upgrades to the Huachuca West
25 Substation, construct an energy storage facility in Sonoita using NaS battery technology.⁴⁵

26 ⁴¹ *Id.*

27 ⁴² *Id.* at 13, 15.

28 ⁴³ *Id.* at 15.

⁴⁴ Rowley Dir. Test., Ex. Rowley-2 at 6.

⁴⁵ *Id.* at 11.

1 While Staff agrees that the Company should properly maintain and to the extent possible,
2 improve the performance of V-7 feeder and associated facilities, and that the Company should more
3 actively pursue DSM, Staff does not agree that the approach presented by Mr. Rowley will address
4 both the reliability and capacity issues that are plaguing the V-7 feeder.

5 Second, Mr. Rowley takes issue with the Company's assessment regarding the number of
6 customers affected by outages, and the number of outages that the SSVEC has experienced on the V-
7 7 feeder.⁴⁶ In particular, Mr. Rowley seems to contend that the 270 hours of outages presented by the
8 Company, while correct, it does not "... correctly state the reality quoted in the Navigant study
9 which says customers have only been out of power an average of 3 hours ..."⁴⁷ However, what Mr.
10 Rowley fails to acknowledge in his testimony is that even an average of 3 hours of outages is still
11 considered unacceptable.⁴⁸ Further, the 3 hour average, or 2.4 if one were to remove 1999 data, does
12 not take into account the momentary interruptions that have occurred on the line.⁴⁹ So while the 3
13 hour average may not be unusual for a 360 mile long feeder that does not mean it is an acceptable
14 average.⁵⁰

15 Finally, during the hearing Mr. Rowley acknowledged that his concern in this case was not
16 the Company's need for the 69 kV line, but that his primary concern relates to the location the
17 Company is proposing for the line.⁵¹ He further elaborated that if the Company was not proposing to
18 build the line on the easement it obtained through the Babacomari Ranch, he would not have
19 intervened in this case. Mr. Rowley also conceded that the Company has an obligation to minimize
20 the duration and number of outages that it experiences, and that SSVEC has an obligation to provide
21 the best solution as it relates to all of its member and not just some of its members.⁵²

22 B. Susan Scott

23 Similar to Mr. Rowley, Ms. Scott addresses a number of topics in her prefiled testimony, but
24 the three major issues she addresses in her testimony are that the Company never listened to the

25 ⁴⁶ *Id.* at 8.

26 ⁴⁷ *Id.*

27 ⁴⁸ Tr. at 203.

28 ⁴⁹ *Id.* at 200.

⁵⁰ Ex. A-2 attached Exhibit B (Study) at 10; Tr. at 331.

⁵¹ Tr. at 648.

⁵² *Id.* at 651-52.

1 communities' concerns, never shared in detail the options they considered in improving electrical
2 reliability in the communities, and that the Company was going to build the 69 kV line on the
3 Babacomari Ranch easement regardless of other possibly better options.⁵³ These are also the reasons
4 that Ms. Scott initially intervened in this case.⁵⁴

5 Ms. Scott asserts that the proposed Sonoita Substation will split the existing V-7 feeder into
6 four separate feeders and would thereby reduce the number of customers affected by outages, rather
7 than the 69 kV line.⁵⁵ Ms. Scott further suggests that a lower cost solution to the capacity issue
8 would be to construct a gas peaker plant or energy storage.⁵⁶

9 Staff does not believe the construction of a power plant is a viable option because it is cost
10 prohibitive, would take a long time, and SSVEC is a distribution cooperative.⁵⁷ Ultimately Staff does
11 not believe the construction of a power plant will address the capacity and reliability problems
12 affecting the existing 360 mile long V-7 feeder.

13 Similarly, implementation of energy storage does not appear to be an appropriate means to
14 deal with the current reliability and service quality issues. The technology involved with the NaS
15 storage systems is still nascent and as such was discounted as a practical response to the V-7 issues.⁵⁸
16 Likewise, it is not certain that this new technology will resolve the reliability and adequacy of service
17 issues within the Affected Area in addition to the added complications presented by incorporating a
18 prototype technology.⁵⁹

19 Ms. Scott clarified her issues in this case during the hearing. She agreed that power is needed
20 to the Community, and while she was not convinced about the 69 kV line, she indicated that if the
21 line is needed, then location of where SSVEC is planning on building the line was her concern.⁶⁰
22 Ultimately, she did indicate she thought she would still have intervened in this case even if the
23 Company wasn't planning on routing the proposed line through the Babacomari Ranch, but she could
24

25 ⁵³ Scott Dir. Test., Ex. Scott-2 at 5.

26 ⁵⁴ *Id.*

27 ⁵⁵ *Id.* at 10.

28 ⁵⁶ *Id.* at 9.

⁵⁷ Ex. S-1 at 10; Tr. at 476-77.

⁵⁸ Ex. A-2 attached Exhibit B (Study) at 57.

⁵⁹ Tr. at 333.

⁶⁰ *Id.* at 698.

1 not say for sure.⁶¹ Ms. Scott also admitted that the Cooperative has an obligation to do what the
2 majority of its members desire.⁶²

3 **C. Susan Downing**

4 Ms. Downing intervened in this case for three reasons: (1) concerns with how the Cooperative
5 spends her money, (2) She does not believe that SSVEC's proposed Sonoita Reliability Project is the
6 best solution for the current or future needs of her community, and (3) The proposed route through
7 the Babacomari Ranch will create environmental, archeological, and visual damage to an area that
8 deserves protection.⁶³ Ms. Downing asserts that the Study was not independent, the proposed 69 kV
9 line is not the best solution, and its construction would not improve reliability.

10 Ms. Downing bases her claim that the Study was not independent on three things. First,
11 Navigant was accompanied by an SSVEC employee when doing a site visit to the V-7 feeder and
12 associated substations. Second, David Larson, from Navigant was used to help with the Study. Third,
13 Ms. Downing claims that Navigant's incorporation of several suggestions from TRC and SSVEC
14 negated the independence of the Study.⁶⁴

15 Staff does not believe that any of these claims undermine the independence of the Study. The
16 mere fact that Navigant and TRC were accompanied by an SSVEC employee, does not call into
17 question the independence of the Study. In fact, Staff believes this would be prudent for safety
18 reasons, and also so that the representatives from Navigant and TRC would have someone that could
19 take them to the facilities in question in this case. In other words, having someone from the
20 Company would help efficiently perform the Study in light of the expedited requirements established
21 by Decision No. 71274.

22 With respect to the alleged taint on the independence of the Study related to David Larsen's
23 participation, Mr. Larsen left the employment of AEPCO in 1986.⁶⁵ AEPCO supplies SSVEC with
24 some of the electricity that it purchases. It is unclear to Staff how Navigant's use of Mr. Larsen
25

26 _____
⁶¹ *Id.*

27 ⁶² *Id.* at 700.

⁶³ Downing Dir. Test., Ex. Downing-1 at 3-4.

28 ⁶⁴ *Id.* at 4-5.

⁶⁵ Tr. at 222.

1 somehow detracts from the independence of the Study since so much time has passed and he never
2 worked, directly or indirectly, for SSVEC.

3 Similarly, Staff does not believe the incorporation of comments and suggestions by SSVEC
4 and TRC compromised the independence of the Study. A representative from TRC testified that the
5 only changes that were made to the study were in the nature of typos and edits, and did not relate to
6 substantive aspects of the Study such as the conclusions or recommendations made by Navigant.⁶⁶

7 Although it is not entirely clear, it appears Ms. Downing's main concern has to do with the
8 route the Company has chosen through the Babacomari Ranch for the proposed 69 kV line.⁶⁷ Ms.
9 Downing indicated during the hearing that if SSVEC was planning on using an alternative route for
10 the proposed line, other than through the Babacomari, she probably would not have intervened in this
11 case.⁶⁸ Ms. Downing also acknowledges, just as the other intervenors did, that SSVEC has an
12 obligation to do what the majority of the cooperative members want.⁶⁹

13 Staff acknowledges the concerns that the intervenors have raised concerning construction of
14 the proposed line on the Company's Babocomari Ranch easement. However, the Company has an
15 obligation to provide a safe, adequate, and reliable degree of service to all of its customers. As was
16 determined in Decision No. 71274, the deterioration of service and improvement of the reliable
17 delivery of service demonstrate a need for the proposed line. However, none of the alternatives
18 evaluated by the Study or considered separately by Staff or the Intervenor provide a sufficiently
19 timely or complete resolution to these adequacy of service and reliability issues as construction of the
20 proposed line.

21 VI. CONCLUSION

22 Staff believes that SSVEC has fulfilled the prerequisites set forth in Decision No. 71274
23 regarding the proposed 69 kV line, and recommends that the Commission amend the Decision in
24 order to allow the Company to construct the 69 kV line to address the reliability and capacity issues
25 ...

26
27 ⁶⁶ *Id.* at 511.

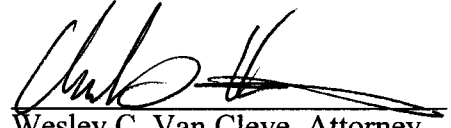
⁶⁷ Ex. Downing-1 at 5.

28 ⁶⁸ Tr. at 723.

⁶⁹ *Id.*

1 affecting the existing V-7 feeder that is currently serving the communities of Elgin, Sonoita, and
2 Patagonia.

3 RESPECTFULLY SUBMITTED this 15th day of April, 2010.

4
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